

UNITED STATES DEPARTMENT OF JUSTICE
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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In re	:	Case No. 19-23697 (KCF)
	:	Chapter 7
Derek Bernard Battle,	:	The Honorable Kathryn C. Ferguson
	:	Hearing Date: April 14, 2020, at 2:00 p.m.
Debtor.	:	
	:	

**CERTIFICATION OF MICHAEL W. APONTE IN SUPPORT OF MOTION BY THE
UNITED STATES TRUSTEE FOR AN ORDER EXTENDING TIME TO FILE A
MOTION TO DISMISS CASE UNDER 11 U.S.C. §§ 707(b)(1) AND (3) AND
EXTENDING TIME TO FILE A COMPLAINT OBJECTING TO DISCHARGE
UNDER 11 U.S.C. § 727**

The United States Trustee, by and through counsel, in furtherance of his duties and responsibilities under 28 U.S.C. § 586(a)(3) and (5), respectfully moves for an order extending time to file a motion to dismiss this case under 11 U.S.C. §§ 707(b)(1) and (3) and extending the time to file a complaint objecting to discharge under 11 U.S.C. § 727.

In support of this motion, I, Michael W. Aponte, Paralegal Specialist, Office of the United States Trustee, Newark, New Jersey, of full age, hereby certify as follows:

1. The docket for this case reflects that on July 15, 2019, Derek Bernard Battle (“Debtor”) filed a voluntary petition (“Petition”) for relief under chapter 13 of title 11 of the United States Code.

2. On December 3, 2019, the Debtor voluntarily converted his bankruptcy case from chapter 13 to one under chapter 7.

3. The docket further reflects that on December 5, 2019, Thomas Orr, Esq. was appointed as the interim chapter 7 trustee (“Trustee”) and a meeting of creditors pursuant to 11 U.S.C. § 341(a) was scheduled for January 10, 2020. The last day to oppose discharge or dischargeability is set for March 10, 2020.

4. On, or about, January 21, 2020, the Office of the United States Trustee (“OUST”) received a referral from the Trustee indicating that the Debtor may have under-reported his gross monthly income.

5. An independent review conducted by the OUST of the Debtor’s Petition, Schedules, and Statement of Financial Affairs identified the instant case as a possible candidate for dismissal under 11 U.S.C § 707(b) or objection to discharge under 11 U.S.C. § 727.

6. On January 23, 2020, Maggie McGee, Trial Attorney for the United States Trustee, sent an email inquiry (“Email Inquiry”) to Vincent Commisa, Esq., Debtor’s counsel of record, requesting documentation to substantiate the Debtor’s income and expenses. A response was requested within 14 days of the Email Inquiry, or February 6, 2020.

7. To date, the OUST has not received documents in response to the Email Inquiry.

8. The OUST is preparing to issue a *Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Bankruptcy Case (or Adversary Proceeding)* to the Debtor for the production of documents relating to the Debtor’s income and expenses.

9. Unless an extension is granted, the Debtor will automatically be issued a

discharge upon expiration of the current March 10, 2020, deadline and the United States Trustee will be deprived of any ability to file a motion to dismiss or complaint objecting to discharge.

10. Based on the foregoing, the United States Trustee, by and through counsel, respectfully requests that the deadline for filing a motion to dismiss under 11 U.S.C. §§ 707(b)(1) and (3) or a complaint objecting to discharge under 11 U.S.C. § 727 be extended for approximately 60 days, or until May 12, 2020, as discovery is ongoing in this matter.

11. The United States Trustee, by and through counsel, reserves his rights to seek any additional extensions of time for good cause shown.

I hereby certify that the foregoing statements made by me are true, and I acknowledge that if any of the foregoing statements are willfully false I may be subject to punishment.

By: /s/Michael W. Aponte
Michael W. Aponte
Paralegal Specialist

DATED: March 9, 2020